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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

CARRIE ROBERTS,

Plaintiff

v.

KILOLO KIJAKAZI,

Acting Commissioner of Social Security,

Defendant

Case No. 1:20-CV-0239-SKO

**STIPULATION AND
ORDER FOR AWARD OF ATTORNEY'S
FEES UNDER THE EQUAL ACCESS TO
JUSTICE ACT (EAJA) AND DENYING
MOTION FOR ATTORNEY'S FEES AS
MOOT**

(Docs. 26 & 28)

IT IS HEREBY STIPULATED by and between the parties through their undersigned counsel, subject to the approval of the Court, that Plaintiff shall be awarded attorney's fees and expenses under the Equal Access to Justice Act (EAJA), 28 U.S.C. sec. 2412(d), in the amount of four thousand two hundred seventeen dollars and thirty six cents (\$4,217.36) and no costs under 28 U.S.C. § 1920. This amount represents compensation for all legal services rendered on behalf of Plaintiff by counsel in connection with this civil action, in accordance with 28 U.S.C. §§ 1920; 2412(d). Accordingly, should this Court award fees and expenses under EAJA pursuant to this stipulation, Plaintiff's motion for attorney fees (ECF 26) would be moot.

1 After the Court issues an order for EAJA fees to Plaintiff, the government will consider the
2 matter of any assignment of EAJA fees by Plaintiff to his counsel Ana L. Molleda (Counsel).
3 Pursuant to *Astrue v. Ratliff*, 560 U.S. 586, 598, 130 S.Ct. 2521, 177 L.Ed.2d 91 (2010), the ability to
4 honor the assignment will depend on whether the fees are subject to any offset allowed under the
5 United States Department of the Treasury's Offset Program. After the order for EAJA fees is entered,
6 the government will determine whether they are subject to any offset.

7 Fees shall be made payable to Plaintiff, but if the Department of the Treasury determines that
8 Plaintiff does not owe a federal debt, then the government shall cause the payment of fees, expenses
9 and costs to be made directly to Counsel pursuant to an assignment executed by Plaintiff. Any
10 payments made shall be delivered to Counsel.

11 This stipulation constitutes a compromise settlement of Plaintiff's request for EAJA attorney
12 fees, and does not constitute an admission of liability on the part of Defendant under the EAJA or
13 otherwise. Payment of the agreed amount shall constitute a complete release from, and bar to, any
14 and all claims that Plaintiff and/or Counsel, including his firm, may have relating to EAJA attorney
15 fees in connection with this action.

16 This award is without prejudice to the rights of Counsel to seek Social Security Act attorney
17 fees under 42 U.S.C. § 406(b), subject to the savings clause provisions of the EAJA .
18

19 Respectfully submitted,

20 Dated: July 7, 2022

21 By: /s/ Kelsey M. Brown*
22 KELSEY M. BROWN
23 By email authorization on 7/7/22
24 Attorney for Plaintiff

25 Dated: July _7, 2022

26 PHILLIP A. TALBERT
27 United States Attorney

28 By: /s/ Marcelo Illarmo
MARCELO ILLARMO
Special Assistant United States Attorney

ORDER

Based upon the parties' foregoing Stipulation for the Award and Payment of Equal Access to Justice Act Fees, Costs, and Expenses (Doc. 28), **IT IS ORDERED** that fees and expenses in the amount of \$4,217.36 as authorized by 28 U.S.C. § 2412, and no costs as authorized by 28 U.S.C. § 1920, be awarded subject to the terms of the Stipulation.

IT IS FUTHER ORDERED that Plaintiff's motion for attorney fees (Doc. 26) is DENIED as MOOT.

IT IS SO ORDERED.

Dated: **July 7, 2022**

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE